

DECISION



THE COMPTROLLER GENERAL
OF THE UNITED STATES
WASHINGTON, D. C. 20548

FILE:

B-218767.2

DATE: October 23, 1985

MATTER OF:

Waugh Controls Corporation

DIGEST:

Where invitation for bids (IFB) specifies brand name as modified or equal, bid which offers brand name and takes no exception to specifications is responsive to IFB. Bidder of brand name solicited by IFB need not address all salient characteristics in its descriptive literature since the salient characteristics merely describe features needed by the agency which the agency has determined are characteristics of the brand name product bid by firm.

Waugh Controls Corporation (Waugh) protests the award of a contract for amplifier sets to Pacific Instruments, Incorporated (Pacific), by the Department of the Air Force under invitation for bids (IFB) No. F40650-85-B0059. Waugh contends that the amplifier sets offered by Pacific are not responsive to the solicitation.

We deny the protest.

Waugh contends that Pacific's bid is nonresponsive because the descriptive literature supplied by Pacific with its bid fails to demonstrate compliance with four characteristics in the specifications: (1) reliability, that the amplifier shall be designed to maximize reliability and that the units receive a minimum 100-hour burn-in; (2) maintainability, that the equipment be obtainable for 25 years; (3) part identification, and (4) interchangeability, that the amplifier have interchangeable and replaceable components.

The Air Force states that Pacific offered the models listed in the specification and, thus, was responsive to the IFB. The Air Force further asserts that, by definition, salient characteristics are descriptive of certain features of the brand name products particularly required by the government to meet its functional needs, and that, in any

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event, the Air Force technical evaluation of Pacific's offer concluded that the items offered by Pacific were the brand name and conformed to the specifications.

The IFB provided, in part, that the D.C. amplifier sets offered by bidders were to meet the requirements of USAF specification No. DDAC-1. Section 3.1.2 of the specification stated that the D.C. amplifier shall be "Pacific Model 3100 as modified or equal." Specification DDAC-1 sets forth eight pages of "performance, design, manufacture and test requirements for the amplifier sets." The IFB included a clause requiring bidders to furnish descriptive literature with the bid in order to establish in detail the design, materials, components, performance characteristics, and methods of manufacture, assembly, construction or operation. It further provided that the term descriptive literature includes only information required to determine the technical acceptability of the offered product, and does not include other information such as that used in determining the responsibility of a prospective contractor or for operating or maintaining equipment. Finally, the clause advised that failure to provide descriptive literature which shows that the product offered conforms to the requirements of the solicitation will require rejection of the bid.

We have recognized that where an agency solicits a brand name or equal product, an agency may specify characteristics that go beyond those of the designated brand name product when those characteristics represent the essential needs of the agency. Potomac Industrial Trucks, Inc., B-203119, Feb. 3, 1982, 82-1 C.P.D. ¶ 78. In these cases, where, in effect, a modified brand name is required it is proper to reject a brand name product which does not show conformance with the salient characteristics.

Here, Pacific bid the Pacific Model 3100-2049 wideband D.C. amplifier in response to the specification requirement for "Pacific Model 3100 as modified" and did not take any exception to the specifications. Pacific submitted its standard commercial literature for the item. This Pacific amplifier is the model 3100 amplifier with additional performance guarantees and test procedures to comply with the IFB requirements. The Air Force technical evaluation concluded from the Pacific proposal that the amplifier bid was the brand name item and conformed to the specifications. We further note that the Air Force previously has purchased the identical Pacific model 3100-2049 under a solicitation with the same product salient characteristics as here, and is thus familiar with the item and its conformity to the specifications. See Waugh Controls Corp., B-216236.2, Apr. 18, 1985, 85-1 C.P.D. ¶ 441, where we rejected Waugh's

contention that the identical Pacific model amplifier did not meet the salient characteristics under USAF specification No. DDAC-1. In these circumstances, we have no basis to question the Air Force finding that Pacific's bid was responsive. See Central Power Engineering Corp., B-215658.2 Jan. 23, 1985, 85-1 C.P.D. ¶ 85; Virginia Refrigeration, Inc., B-194495, Aug. 17, 1979, 79-2 C.P.D. ¶ 129.

Since Pacific bid the brand name item, Pacific's failure to specifically address the four characteristics in the specifications did not render the bid nonresponsive. See Sulzer Bros., Inc., et al., B-188148, Aug. 11, 1977, 77-2 C.P.D. ¶ 112, where we stated that, notwithstanding a requirement for descriptive data, a bid should not be automatically rejected for failure to furnish descriptive data where it is not material. Here, the brand name item specified in the IFB ("Pacific Model 3100 as modified") met the IFB specifications and the Air Force properly could conclude that Pacific's proposal was responsive to the IFB. See Coulter Electronics, Inc. B-216800, Apr. 23, 1985, 85-1 C.P.D. ¶ 463.

We deny the protest.

for *Signature* *of*
Harry R. Van Cleve
General Counsel